

REMARKS

With the foregoing amendment claims 1-6 and 21-49 are pending in the application. Claims 1, 26, 35 and 46 are in independent form. Applicant respectfully requests reconsideration of the Rejections/Objections, which are discussed below.

First Rejection Under 35 U.S.C. § 102(b)

Claims 1-6 and 21-34 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Bullard (U.S. 5,665,052). Applicant respectfully disagrees.

Independent Claim 1

With respect to Claim 1, claim 1 is not anticipated by Bullard because Bullard does not disclose all of the features of claim 1. For example, at the least, Bullard does not disclose “a first guide tube affixed to said upper surface of said elongated blade ... ; and a second guide tube affixed to said upper surface of said elongated blade,” as is required by claim 1 (emphasis added).

Bullard discloses a laryngoscope with a stylet to act as a support for an endotracheal tube, and which receives within it a guide member that can be easily manipulated and directed down a patient’s larynx. See col. 2, lines 54-58. The laryngoscope is illustrated in figure 1. The stylet (60), guide member (66) and endotracheal tube (68) are illustrated in figures 1 and 2.

The Office contends that stylet 60 is “affixed to said upper surface of said elongated blade.” This contention lacks merit. Nowhere does Bullard disclose that the stylet 60 is affixed to the upper surface of blade 30. Rather, Bullard explicitly discloses that the stylet 60 is “affixed to the body 22 by a connection 62 remote from the stylet’s distal end 64.” Col. 4, lines 47-48. Accordingly, because the stylet 60 is not affixed to the upper surface of blade 30, the rejection of claim 1 should be withdrawn.

The Office also contends that claimed “second guide tube” reads on the “endotracheal tube (68).” This is a mistake on the Office’s part because endotracheal tube (68) is not a guide tube as it does not function to guide anything.

Moreover, even if we assume *arguendo* that the endotracheal tube (68) is a “second guide tube” (it is not), Bullard would still not anticipate claim 1 because claim 1 specifically requires that the “second guide [be] affixed to said upper surface of the elongated blade.” The endotracheal tube (68) is not affixed to any portion of the laryngoscope, let alone affixed to the upper surface of the elongated blade. For this reason, Applicant respectfully submits that Bullard does not anticipate.

The endotracheal tube (68) is not affixed to any portion of the laryngoscope because the laryngoscope would not be able to perform its main function if the endotracheal tube (68) were affixed to the upper surface of the blade. The main function of the laryngoscope is to “quickly and accurately position the endotracheal tube.” Col. 2, lines 60-61. Accordingly, it is necessary that the endotracheal tube be free to move with respect to the elongated blade so that the endotracheal tube can be “pushed off the stylet and advanced along the guide member until [the endotracheal tube] is positioned to permit proper ventilation of the patient.” Col. 3, lines 22-24.

Bullard discloses that once the endotracheal tube (68) is positioned to permit proper ventilation of the patient, “the guide member and laryngoscope and stylet are then removed from the patient’s mouth.” Col. 3, lines 24-26. This feature of Bullard is clearly shown in figures 5-6, which figures show that once the endotracheal tube (68) is positioned properly in the patient’s throat, the entire apparatus, with the exception of endotracheal tube (68), is removed from the patient. Accordingly, it is clear that the endotracheal tube (68) is not “affixed to the said upper surface of the elongated blade,” as is required by claim 1. If the endotracheal tube were affixed to the blade, then the doctor would not be able to “push off” the endotracheal tube and, thus, would not be able to establish the tube in a desired location in the patient’s trachea to permit ventilation of the patient.

For the reasons given above, Applicant, respectfully requests that the rejection of independent claim 1, and dependent claims 2-6 and 21-24, which depend from claim 1, be withdrawn.

Dependent claim 2

Bullard does not disclose “said first guide tube is substantially straight along its entire length,” as is required by claim 2.

The Office contends that the recited “first guide tube” reads on element 60 of Bullard (i.e., the “stylet 60”). Applicant admits that stylet 60 is a tube, however, it is clear from the disclosure of Bullard that stylet 60 is not “substantially straight along its entire length,” but rather is significantly curved at its lower section. For example, each figure in which stylet 60 appears shows that stylet 60 is curved at its lower section. The reason stylet 60 must be curved at its lower section is because it must “conform with the curvature of the normal human oral and pharyngeal passageways.” Col. 4, lines 1-2.

Because Bullard does not disclose “said first guide tube is substantially straight along its entire length,” as is required by claim 2, the rejection of claim 2 should be withdrawn.

Dependent claim 6

Bullard does not disclose “wherein said first and second guide tubes are oriented at different angles of attack with respect to said elongated blade.” The Office contends otherwise. However, in support of its contention that Bullard discloses the features of claim 6, the Office merely directs the applicant’s attention to figures 3 and 4 of Bullard. But these figures merely show that the guide member 66 is passed through stylet 60 and then “advanced between the patient’s vocal cords 106.” Col. 5, lines 23-24. These figures do not disclose the features of claim 6. Accordingly, the rejection of claim 6 should be withdrawn.

Dependent claim 21

Bullard does not disclose that “the proximal end of the first guide tube [is] positioned at the proximal end of the elongated blade,” as is required by claim 21. The Office contends otherwise. However, in support of its contention that Bullard discloses the features of claim 21, the Office merely directs the applicant’s attention to figure 1 of Bullard. But this figure does not show the features of claim 21. Rather, figure 1 clearly shows that the proximal end of the stylet 60 and the proximal end of the tube 68 are both

positioned nowhere near the proximal end 34 of blade 30, but rather next to the proximal end 26 of the laryngoscope 20. Accordingly, the rejection of claim 21 should be withdrawn.

Dependent claim 22

Bullard does not disclose that “the distal end of the first guide tube [is] positioned at about the midpoint of the elongated blade,” as is required by claim 22. The Office contends otherwise. However, in support of its contention that Bullard discloses the features of claim 22, the Office asserts that the stylet 60 (i.e., the first guide tube according to the Office) can be “advanced and retracted.” This is incorrect. Nowhere does Bullard disclose that the stylet 60 can be advanced and retracted. Rather, Bullard discloses that the tube 68 and the guide member 66 may be advanced and retracted. Furthermore, Bullard explicitly discloses that the stylet 60 is “affixed to the body 22 by a connection 62 remote from the stylet’s distal end 64.” Col. 4, lines 47-48. Accordingly, because the stylet 60 is affixed to the body 22, stylet 60 is not capable of being “advanced and retracted.” Accordingly, the Office’s assertion that stylet 60 (i.e., the first guide tube) can be advanced and retracted has no basis in fact. Applicant, therefore, respectfully requests that the rejection of claim 22 be withdrawn.

Dependent claim 23

Bullard does not disclose that “the center of the distal end of the first guide tube is disposed above the center of the distal end of the second guide tube relative to the upper surface of the elongated blade,” as is required by claim 23. The Office contends otherwise. However, the Office’s reasoning is based on the faulty premise that the stylet 60 can be advanced and retracted. However, as discussed above in connection with claim 22, there is no teaching anywhere in Bullard of the stylet 60 being advanced or retracted.

Independent Claim 26

The above remarks for claim 1 apply to claim 26 because, similarly to claim 1, claim 26 requires two guide means, wherein both guide means are affixed to the

elongated blade, and, as discussed above with respect to claim 1, neither the stylet 60 nor the endotracheal tube 68 are affixed to blade 30.

Moreover, the endotracheal tube 68 does not perform the recited function of “guiding [an] aspiration tube to a patient’s glottic aperture.” The Office can not ignore the this functional limitation of claim 26.

For the above reasons, the rejection of claim 26, and claims 27-34, which depend from claim 36, should be withdrawn.

Dependent claim 28

The remarks for claim 2 apply to claim 28.

Dependent claim 34

The remarks for claim 6 apply to claim 34.

Dependent claim 30

The remarks for claim 21 apply to claim 30.

Dependent claims 31-32

The remarks for claim 22 apply to claims 31-32.

Dependent claim 34

The remarks for claim 6 apply to claim 34.

Second Rejection Under 35 U.S.C. § 102(b)

Claims 35-45 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Augustine (U.S. 5,203,320). Applicant respectfully disagrees.

Independent Claim 35

With respect to Claim 35, claim 35 is not anticipated by Augustine because Augustine does not disclose all of the features of claim 35. For example, Augustine does not disclose “a base for coupling the blade assembly to a handle of a laryngoscope.” The

Office contends otherwise. More specifically, the Office contends that element 206 is a “base for coupling to a handle of a laryngoscope.” See Office Action at p. 4 (“Augustine discloses a blade assembly, comprising: base 206 ...”). However, element 206 is not a base, rather it is nothing more than the intermediate section 206 of an elongate body member 200 of an intubation guide. See Augustine at col. 11, lines 22-30 (“the intubation guide includes an elongate body member 200 having a proximal section 202, a distal section 204, and an intermediate section 206 extending therebetween.”). Nowhere does Augustine disclose that element 206 is “a base for coupling to a handle of a laryngoscope.” For this reason alone, the rejection of claim 35 should be withdrawn.

Additionally, Augustine does not disclose “a blade secured to the base.” The Office contends that element 290 is a blade. See Office Action at p. 4 (“Augustine discloses a blade assembly, comprising: ... a blade 290 ...”). The Office is incorrect. Element 290 is not a blade. Rather, element 290 is nothing more than a “flange.” See Augustine at col. 13, line 33 (“The tube receptacle 288 extends from a flange 290 ...”) (emphasis added). The present application does not use the terms “blade” and “flange” interchangeably. In fact, the present application uses the terms “blade” and “flange” to mean two different things. For example, the present application states, “[t]he blade assembly 10 comprises an elongated, curved blade 20, a base 30 for coupling blade assembly 10 to handle 40, ..., a horizontal flange 70 attached to tongue deflector 60, ...” Page 5, paragraph 31. Accordingly, it is wrong for the Office to equate a “flange” with a “blade.” Simply put, the Office is incorrect to assert that the recited “blade” reads on the “flange 290” disclosed in Augustine.

Furthermore, even if we assume *arguendo* that “flange 290” is a blade (it is not), Augustine would still not anticipate because claim 35 specifically requires that the “lower surface of the blade is secured (i.e., affixed) to said base at said proximal end” and nowhere does Augustine disclose that the flange 290 is secured to said intermediate section 206 at said proximal end.

For the reasons given above, Applicant, respectfully requests that the rejection of independent claim 35, and dependent claims 36-45, which depend from claim 35, be withdrawn.

Dependent Claim 37

Even if we assume *arguendo* that “flange 290” is a blade, Augustine does not disclose that “the second guide tube is curved and the curvature of the second guide tube generally conforms to the curvature of the elongate blade.” It is clear from the drawings that none of the putative guide tubes is curved.

Dependent Claim 41

Even if we assume *arguendo* that “flange 290” is a blade, Augustine does not disclose that “the proximal end of the first guide tube and the proximal end of the second guide tube are both positioned at the proximal end of the [flange 290].” According to Augustine, flange 290 “extends from the approximate distal end 282 of the intubation guide to the handle indentations 268.” Col. 13, lines 33-36. However, that which the Office alleges are the “guide tubes” do not extend to the handle indentations 268. Thus, the proximal ends of these putative guide tubes are not positioned at the proximal end of the flange 290.

Dependent Claim 42

Even if we assume *arguendo* that “flange 290” is a blade, Augustine does not disclose that “the distal end of the first guide tube and the distal end of the second guide tube are both positioned at about the midpoint of the [flange 290].” It is clear from the drawings that the distal ends of the putative guide tubes are not positioned at about the midpoint of the flange 290.


New Claims

New claims 46-49 are added. Claim 46 is independent and claims 47-49 depend from claim 46. Support for new claim 46 can be found at, for example, Figure 1 and the description thereof. New claim 46 is patentable over Bullard and Augustine.

CONCLUSION

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections, and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

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